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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. NO.1699/2002

This the 4th day of July, 2003

HON'BLE SHRI V.K.MAJOTRA, MEMBER (A)

Ombir Singh S/O Brijpal Singh,
R/O H. No.266, Village Devli,
Post Office Pushpa Bhawan,
New Delhi-110062.

... Applicant

(By Shri B.S.Billowria, Advocate)

-versus-

1. Commissioner-II,
Custome & Central Excise Commissionerate,
Mangal Pandey Nagar, Meerut (UP).
... Respondents
2. Deputy Commissioner,
Customs & Central Excise Commissionerate,
Noida (UP).
... Respondents

(By Shri H.K.Gangwani, Advocate)

O R D E R (ORAL)

Applicant claims to have been appointed as daily-rated Peon in the office of Deputy Commissioner, Central Excise Division-III, Noida on 1.4.1998. He states to have worked as such till 25.6.1998. According to him he was re-engaged on 3.8.1998 and continued to work as such till August, 2001. He claims that in this manner he has worked as a daily-rated Peon in Division-III for a period of 559 days. It is alleged that juniors to applicant are still working but applicant's services have been dispensed with by an oral order without giving him any notice. He seeks reinstatement on the post of Peon with consequential benefits. The learned counsel of applicant has stated that in similar circumstances one Ashok Kumar had approached this Tribunal through OA No.169/2000 which was

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allowed by order dated 3.5.2001 directing the respondents to engage the applicant in preference to juniors and freshers. The learned counsel also pointed out that one Shatrohan Lal who was also similarly situated was re-engaged on permanent basis on the basis of order dated 21.2.2000 of this Tribunal in OA No.110/1999. The learned counsel also stated that applicant's juniors are still working with respondents.

2. On the other hand, the learned counsel of respondents stated that applicant was never appointed on the post of Peon. However, he was engaged from time to time for a period of 559 days from August, 1998 to July, 2001 to look after the non-regular/seasonal nature of work in the Division office. The learned counsel drew my attention to letter dated 5.3.2002 of the Assistant Commissioner, Central Excise, Division-III, Noida contending that Shri Shatrohan Lal was applicant's senior. Shri Shatrohan Lal was engaged in September, 1996 vis-a-vis applicant who was engaged in August, 1998. The services of Shri Shatrohan Lal, as admitted by applicant himself, were ordered to be regularised on the basis of court orders. So far as Shri Ashok Kumar is concerned, respondents have stated that his case does not pertain to Division-III. The learned counsel also contended that the certificates relied upon by applicant were not issued by the Deputy Commissioner or any officer of that Division. Whereas I do not consider it necessary to dwell upon ^{1b} whether the certificates produced by applicant were genuine or not, respondents have admitted that applicant had worked with them intermittently for a

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period of 559 days for performance of non-regular/seasonal nature of work in Division-III, which period is spread over a span of three years. Here is a case the facts and circumstances of which warrant that respondents should consider engaging applicant for non-regular/seasonal nature of work as and when such work is available in Division-III. They should consider the case of applicant in preference to juniors and freshers. Ordered accordingly.

3. The OA is partly allowed as above. No costs.

V.K. Majotra
(V. K. Majotra)
Member (A)

/as/